IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

TUESDAY, THE 13TH FEBRUARY 2007 / 24TH MAGHA 1928

WP(C).No. 16525 of 2005(P)

PETITIONER:

P.K. GEORGE, S/O. KURIAN,
THOTTATHILAYA PAZHEDATH,
ETTUMANOOR P.O., KOTTAYAM DISTRICT.

BY ADV. SRI.TOMY SEBASTIAN
SRI.G.SUMESH

RESPONDENTS:
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1. THE ETTUMANOOR SERVICE CO-OPERATIVE BANK LTD.NO.4069, ETTUMANOOR P.O., KOTTAYAM DISTRICT., REPRESENTED BY ITS SECRETARY.

2. THE JOINT REGISTRAR, THE OFFICE OF THE JOINT REGISTRAR CO-OPERATIVE SOCIETIES KOTTAYAM.

3. THE ASST.REGISTRAR, (GENERAL CO-OPERATIVE SOCIETY, KOTTAYAM.)

BY ADV. SRI.V.J.JAMES FOR R1
SPL GOVERNMENT PLEADER SRI.P.K.RAVIKRISHNAN FOR R2 & R3

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 13/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P. (C) NO.16525 OF 2005

APPENDIX

PETITIONER'S EXHIBITS:

EXHIBIT.P1: TRUE COPY OF THE CIRCULAR DATED 27.09.2001 AND BEARING NO.35/01 ISSUED BY THE REGISTRAR OF CO-OPERATIVE SOCIETIES

EXHIBIT.P2: TRUE COPY OF THE LETTER DATED 01.01.2002 SENT BY THE PETITIONER TO THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES, KOTTAYAM.

EXHIBIT.P3: A TRUE COPY OF THE LETTER DT.01.01.2002 ISSUED TO THE SECRETARY OF THE 1ST RESPONDENT BANK

EXHIBIT.P4: A TRUE COPY OF THE LETTER DT.15.01.2002 SENT BY THE SECRETARY OF 1ST RESPONDENT BANK TO THE PETITIONER

EXHIBIT.P5: A TRUE COPY OF THE LETTER DT. 18.01.2002 SENT BY THE SECRETARY OF THE 1ST RESPONDENT BANK

EXHIBIT.P6: A TRUE COPY OF THE NOTICE DT. 01.03.2002 PUBLISHED BY THE 1ST RESPONDENT BANK

RESPONDENTS EXHIBITS:

EXHIBIT.R1(a): TRUE COPY OF THE CIRCULAR NO.35/2001 DTD 27.9.2001 ISSUED BY THE REGISTRAR OF CO-OPERATIVE SOCIEITES

EXHIBIT.R1(b): TRUE COPY OF THE CIRCULAR NO.CB (4) DTD 29.11.2001 ISSUED BY THE REGISTRAR OF CO-OPERATIVE SOCIEITES

EXHIBIT. R1 (c): TRUE COPY OF THE REPLY DATED 15/1/02 SENT BY THE 1ST RESPONDENT.

EXHIBIT R1 (d): TRUE COPY OF THE LETTER DATED 18/1/2002, SENT BY THE PETITIONER TO THE 1ST RESPONDENT.

EXHIBIT. R1 (e): TRUE COPY OF THE CIRCULAR NO.33/95 DATED 30/12/96 ISSUED BY THE REGISTRAR OF CO-OPERATIVE SOCIETIES

EXHIBIT. R1 (f): TRUE COPY OF CIRCULAR NO.20/96 DTD 9/9/96 ISSUED BY REGISTRAR OF CO-OPERATIVE SOCIETIES.

K.PADMANABHAN NAIR, J.

W.P. (C) No. 16525 OF 2005

Dated this the 13th day of February, 2007

J U D G M E N T

The petitioner had availed a loan from the 1st respondent Bank. Since he committed default, the Bank initiated steps for recovery of amount. On 9.1.2002 the petitioner filed a petition before the Secretary claiming benefit under One Time Settlement Scheme which as existed then. The Secretary of the 1st respondent had informed the petitioner that request was forwarded to the Assistant Registrar (General) on 18.1.2002 and it will take a decision only after getting necessary directions from the Assistant Registrar. In Ext.P4 letter addressed to the petitioner is also stated that in case the Assistant Registrar takes a decision to give any concession to the petitioner excess amount, if any, collected will be refunded.

2. The petitioner had already paid the entire amount claimed by the Bank and he is claiming refund of the excess amount paid. Since the loan was repaid prior to January, 2002, the matter has to be considered in accordance with the Circular issued at that point of time. Ext. R1 (a) - copy of the

Circular produced by the Bank shows that sanction from the competent authority is necessary for One Time Settlement. The petitioner has produced a copy of the petition filed by him before the Assistant Registrar. According to the petitioner, the Assistant Registrar has not taken any decision in that matter.

3. Considering the facts and circumstances, I am of the view that it is only just and proper that the petitioner files a fresh application along with copy of Ext.P2 before the Assistant Registrar within a period of one month. If such a petition is filed, the Assistant Registrar shall consider the request and take a decision after hearing the petitioner and 1st respondent as expeditiously as possible, at any rate, within two months from the date of filing of such application. In case the Assistant Registrar takes a view that the petitioner is entitled to get any amount refunded 1st respondent shall pass appropriate orders in accordance with law.

The writ petition is disposed of as above.

K.PADMANABHAN NAIR, JUDGE.

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(KURIAN JOSEPH, JUDGE)

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KURIAN JOSEPH, J.

OP No.

JUDGMENT

13th March, 2006